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**To:** Senate Co-Chair Mary Daugherty Abrams  
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Senate Ranking Member Tony Hwang  
Senate Ranking Member Heather Somers  
House Ranking Member William Petit  
Honorable Members of the Public Health Committee

**From:** Beverly K. Streit-Kefalas  
Probate Court Administrator

**Re:** Senate Bill No. 369, An Act Concerning The Department of Developmental Services' Recommendations Regarding Various Revisions To Developmental Services Statutes

**Date:** March 14, 2022

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Thank you for the opportunity to testify on Senate Bill No. 369, An Act Concerning The Department of Developmental Services' Recommendations Regarding Various Revisions To Developmental Services Statutes, and more specifically with respect to section 3, subsection (a) of the proposed bill.

Section 3(a) seeks to introduce new language to Conn. Gen. Stat. section 17a-274 that is not merely technical nor a clarification but rather seeks to change judicial authority established by statute under which the courts have determined intellectual disability in involuntary placement proceedings for over 60 years. It is important to highlight that a petition for involuntary placement under section 17a-274 is a proceeding with significant constitutional rights at issue.

There are two statutory schemes concerning adults with an intellectual disability under which a party may petition a Probate Court. Both petitions involve the constitutional rights of a respondent individual.

The first type of petition is set forth in Conn. Gen. Stat. section 45a-669, et seq., concerning the appointment of a guardian for the adult respondent. The second is Conn. Gen. Stat.

section 17a-274, et seq., which are judicial proceedings for the involuntary placement of an individual with the Department of Developmental Services. The Probate Court must first find that the respondent has an intellectual disability and then the court must determine if the individual is unable to meet certain essential needs. Under those judicial determinations, the court may then involuntarily place the respondent under the care and control of the Department of Developmental Services, as more fully set forth under section 17a-274(a).

It is the latter proceeding that this bill proposes to significantly alter the adjudication of an individual's rights as proposed in section 3, subsection (a) of the bill.

The Probate Courts generally become involved in the lives of adults with an intellectual disability when they are unable to care for their physical health or safety, or make decisions about their care. In such cases, the court determines whether the adult has an intellectual disability and, if so, appoints a guardian to supervise all or some aspects of the person's care. Annually, Connecticut's system of 54 probate courts receive between 600-800 new petitions for guardianship of adults with an intellectual disability.

In a proceeding for the appointment of a guardian for an adult with intellectual disability, a marshal or indifferent person must personally serve the adult with a copy of the petition, notice of hearing and citation. The notice of hearing must include information regarding the rights of the respondent adult and the court appoints an attorney to represent the respondent. The Probate Court hears evidence concerning the respondent's condition and will appoint a guardian if there is clear and convincing evidence that the respondent has an intellectual disability, as defined in statute, and by reason of the severity of the intellectual disability, the respondent is unable to meet some or all essential requirements for their health or care. The Department of Developmental Services plays a critical role in these proceedings as it is charged by statute to complete an assessment of the individual respondent.

In a proceeding for placement of an adult with intellectual disability with the Department of Developmental Services, the Probate Court is charged with determining whether the respondent has an intellectual disability and the other criteria of section 17a-274 are met. Similar to a proceeding to appoint a guardian, the Probate Court serves the respondent with a notice of hearing, which must include notice of the respondent's rights, and appoints an attorney for the respondent. The court also appoints an independent licensed psychologist to examine the respondent. A copy of the report is sent to the Department of Developmental Services.

It is this court-appointed independent licensed psychologist who evaluates the respondent and includes in their report whether the individual has an intellectual disability. This distinction is important in that in more than 50% of the petitions for involuntary placement over the past 4 years, the department itself has been the petitioner. The psychologist not only evaluates whether the respondent has an intellectual disability but they also evaluate the individual's adaptive behavior.

After hearing all evidence, as set forth in section 17a-274(g) the Probate Court must find by clear and convincing evidence that the respondent has an intellectual disability and meets the

criteria set out in subsection (a) of 17a-274. If so, the court may order the respondent to be involuntarily placed with the department in the least restrictive environment possible.

Adoption of the proposed language in section 3(a) of Senate Bill No. 369 is not a clarification of the role of the department in these matters but it proposes to replace the Probate Court's responsibility in safeguarding the constitutional rights of persons with an intellectual disability and may actually cause confusion as to the role of the independent psychologist.

Placement decisions, just like petitions for guardianships, impact an individual's constitutional rights and replacing the independent psychologist's role in evaluating whether an individual has an intellectual disability and the Court's authority to make the requisite determinations in these matters raises significant constitutional issues for the protection of these respondents.

For the reasons set forth above, the Office of the Probate Court Administrator is opposed to statutory revisions in section 3 as proposed.

Thank you for your consideration.